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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/049,174	02/08/2002	Per Nordvall	11709.51USWO	7954
23552	7590	05/21/2004	EXAMINER	
MERCHANT & GOULD PC P.O. BOX 2903 MINNEAPOLIS, MN 55402-0903			PRONE, JASON D	
			ART UNIT	PAPER NUMBER
			3724	<i>9</i>
DATE MAILED: 05/21/2004				

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	10/049,174	NORDVALL, PER	
	<b>Examiner</b>	<b>Art Unit</b>	
	Jason Prone	3724	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) Responsive to communication(s) filed on 26 February 2004.
- 2a) This action is FINAL.                    2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) Claim(s) 1-12 is/are pending in the application.
- 4a) Of the above claim(s) 6 is/are withdrawn from consideration.
- 5) Claim(s) \_\_\_\_\_ is/are allowed.
- 6) Claim(s) 1-5 and 7-12 is/are rejected.
- 7) Claim(s) \_\_\_\_\_ is/are objected to.
- 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on \_\_\_\_\_ is/are: a) accepted or b) objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) All    b) Some \* c) None of:
1. Certified copies of the priority documents have been received.
  2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- 1) Notice of References Cited (PTO-892)  
2) Notice of Draftsperson's Patent Drawing Review (PTO-948)  
3) Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_.

- 4) Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_.  
5) Notice of Informal Patent Application (PTO-152)  
6) Other: \_\_\_\_\_.

## DETAILED ACTION

### *Drawings*

1. The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the wheels that protrude less than 3mm from the housing, of claim 11, must be shown or the feature(s) canceled from the claim(s). No new matter should be entered.

A proposed drawing correction or corrected drawings are required in reply to the Office action to avoid abandonment of the application. The objection to the drawings will not be held in abeyance.

### *Claim Objections*

2. Claim 3 is objected to because of the following informalities: On line 4, the phrase "running surfaces (5c)" should be replaced with "running surface (5c)". Appropriate correction is required.

### *Claim Rejections - 35 USC § 112*

3. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

4. Claim 11 is rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the enablement requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to enable one skilled in the art to which it pertains, or with which it is most nearly connected, to make and/or use the invention.

5. Claim 11 discloses that each wheel protrudes less than 3mm the housing, however there is no support for a wheel that extends less than 3mm in the specification. There is only support for approximately 3mm or more on page 3 line 16. This is a new matter rejection.

6. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

7. Claims 1-5 and 7-12 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

8. Claim 1 recites the limitation "the remaining part" on line 7. There is insufficient antecedent basis for this limitation in the claim.

9. In regards to claim 5 line 2, the phrase "the part" is unclear. It is uncertain if the part refers to the "first part" or the "second part".

#### ***Claim Rejections - 35 USC § 102***

10. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

11. Claims 1-5, 9, 10, and 12 are rejected under 35 U.S.C. 102(b) as being anticipated by Jonsson.

Jonsson discloses the same invention including a sheet metal forming tool (3) comprising a first part for performing a reciprocating movement (4), produce by a means

of a drive arrangement (11), in relation to a second part fixed to a stand (2), a bearing arranged between the parts (6), that the first part has elements for forming a held sheet (14 and 15), that the bearing comprises at least one wheel (6) on a shaft (7) arranged on one of the parts (4) and a running surface for the wheel on the remaining part (2), that the surface faces the wheel and defines the reciprocating movement of the first part (2), that there are at least two wheels on the shaft arranged at a distance from one another (6), that each wheel is substantially enclosed by a housing (8), that each wheel has a partially protruding portion that protrudes through an opening facing the running surface (Figs. 1 and 2), that the opening lies substantially close up to each wheel (Fig. 2), that the shaft is fixed to the first part (Fig. 3), that the wheels are rotatably mounted on the shaft (6), that the distance between the parts is less than the thickness of the sheet (Fig. 2), that the radial distance between the peripheral surface of each wheel and its pivot bearing is greater than the distance between the parts (Fig. 1), and that each wheel protrudes more than 3mm from the housing (Fig. 3).

***Claim Rejections - 35 USC § 103***

12. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

13. Claim 7 is rejected under 35 U.S.C. 103(a) as being unpatentable over Jonsson in view of Kobayashi et al. Jonsson discloses the invention but fails to disclose a sealing arrangement is designed to substantially seal a space between the first and

second parts and the ability to substantially enclose the partially protruding portion. Kobayashi et al. teaches a sealing arrangement (6 and 7) to seal a space between a first and second part (3 and 4) and would have the ability to enclose anything within the sealed space (Fig. 1). Therefore, it would have been obvious to one of ordinary skill in the art, at the time of the invention, to have provided Jonsson with a sealing arrangement, as taught by Kobayashi et al., to prevent any unwanted materials from entering a certain area.

14. It is to be noted that claim 11 has not been rejected over prior art. It may or may not be readable over the prior art but cannot be determined at this time in view of the issues under 35 USC § 112.

***Allowable Subject Matter***

15. Claim 8 would be allowable if rewritten to overcome the rejection(s) under 35 U.S.C. 112, second paragraph, set forth in this Office action and to include all of the limitations of the base claim and any intervening claims.

***Response to Arguments***

16. Applicant's arguments filed 26 February 2004 have been fully considered but they are not persuasive. The reciprocating movement requires an advancing movement and a retracting movement. In order for the apparatus, disclosed by the Jonsson patent, to be used more than one time an inherent retracting motion must occur to allow the machine to start at the beginning of the work piece. The Jonsson patent clearly shows a second part (2) that is fixed to a stand (legs under 2). From Figure 2, the bearings are clearly between the first and second part regardless of the work piece.

Also, the work piece is not part of the structure of the Jonsson reference. With that in mind, the bearings/wheels are still clearly in-between the first and second parts. The second part clearly shows a running surface that supports the wheel, however, in this case, the running surface also supports the work piece. As claimed, the running surface must only face the wheel and the Jonsson patent discloses a running surface that faces the wheel (Fig. 1). As for the arguments that "The reciprocating movement of the device of claim 1 occurs while the sheet is being formed. In other words, it is the reciprocating movement that enables the claimed device to form the metal" is contradictive to the phrase "A first part 2 is designed, during an advancing movement, to flange or form a part of the sheet 1 by means of a sheet-metal forming force obtained from the drive unit" on line 34-36 of the specification. It would be unclear how the retracting movement of the reciprocating motion would form the metal further.

### ***Conclusion***

17. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Wilcox, Yamaguchi et al., Bartos, and Fishman.
18. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not

mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jason Prone whose telephone number is 703-605-4287. The examiner can normally be reached on 7:30-5:00, Mon - (every other) Fri.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Allan N. Shoap can be reached on 703-308-1082. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

JP  
May 12, 2004

  
Allan N. Shoap  
Supervisory Patent Examiner  
Group 3700